



TESTIMONY OF PORTIA WU
Vice President, National Partnership for Women & Families
Pennsylvania House Labor Relations Committee, H.B. 2278
August 18, 2010

On behalf of the National Partnership for Women & Families, I am pleased to express our strong support for House Bill 2278, The Pennsylvania Family and Medical Leave Act. This legislation will protect workers' economic security while allowing them to provide essential care for their family members. It deserves full support from all legislators.

The National Partnership for Women & Families is a nonprofit, nonpartisan organization that promotes fairness in the workplace, access to quality health care, and policies that help women and men meet the dual demands of work and family.

Laws like the federal Family and Medical Leave Act (FMLA) and Pennsylvania's HB 2278 are particularly important in times like this. Even in the best of times, no one can afford to lose a job because of an illness or the illness of a family member—and in today's economic crisis, workers and families need job protection more than ever. In good times and in bad, workers have family responsibilities and family members fall ill and need care. This legislation would help Pennsylvania workers care for their family members, without being forced to risk their jobs and livelihood when they do. HB 2278 will help Pennsylvania families, employers, and communities to meet the needs of a changing workforce and society.

I. Our Nation's Work-Family Supports Need Strengthening.

The National Partnership has vast expertise on this issue. One of the most important accomplishments of our nearly 40-year history is enactment of the federal Family and Medical Leave Act (FMLA). We wrote the initial draft of the bill; built a broad-based supporting coalition of more than 250 national and local organizations; and pushed for eight years until the law was enacted. We still consider ourselves stewards of the law, and continue to work tirelessly to make its protections available to all workers.

The FMLA is the only federal law that helps workers meet their family and work obligations. It provides basic protection: workers at companies with 50 or more employees are eligible for unpaid job-protected leave for up to 12 weeks a year to care for a new child, to care for a seriously ill family member, or to recover from an employee's own serious illness. We estimate that, since its enactment, these protections

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have been used more than 100 million times.¹ About half of all workers who took leave have used it for caregiving: nearly one-third (31%) have done so to care for a seriously ill child, spouse or parent, and nearly one-fifth (18.5%) have used it to bond with a new child.²

While the FMLA has been a great success, it was designed to be a first step; there are many serious needs the law does not address. For example, the scope of family members covered by the federal FMLA does not account for the reality of workers' caregiving responsibilities. That is why we are so pleased that Pennsylvania is taking this step to expand the family members who will have access to FMLA leave through HB 2278.

II. HB 2278 Would Help Workers Meet their Caregiving Responsibilities.

HB 2278 would create a modest change by allowing workers up to 12 weeks of unpaid job-protected leave to care for a sibling, grandparent or grandchild with a serious health condition. This would complement workers' existing FMLA rights to take unpaid time off to recover from their own serious health condition or to care for a parent, spouse or child with a serious condition.

HB 2278 reflects the needs of today's society by recognizing that families are not one-size fits all. Many workers have caregiving responsibilities that extend beyond the family members covered by the federal FMLA. According to one national survey of caregivers, 5% care for a sibling, 8% care for a grandparent and 3% care for a grandchild.³ The increase in the number of single adults and the growing number of people who do not have children mean that more people will turn to other relatives, such as siblings, when they need care.⁴ Care by grandparents is also increasingly common. According the Census Bureau's 2000 numbers, "[a]bout 6.5 million children lived with at least one grandparent, and 1.6 million of these children had no parent present."⁵

¹ National Partnership calculation derived from U.S. Department of Labor estimates of the number of leaves taken annually. See *The Family and Medical Leave Act of 1993; Proposed Rule*, 73 Fed. Reg. 7876, 7944 (Feb. 11, 2008) (multiplying DOL estimate of 7 million workers per year by the 17 years since FMLA enactment).

² David Cantor et al., *Balancing the Needs of Families and Employers: Family and Medical Leave Surveys 2000 Update* (U.S. Dep't of Labor, Washington, DC 2000) at 2-5, Tbl. 2.3 [hereinafter "2000 DOL Report"].

³ National Alliance for Caregiving and AARP, "Caregiving in the US 2009," (November 2009), p. 18 (available at http://www.caregiving.org/data/Caregiving_in_the_US_2009_full_report.pdf).

⁴ 27.5% of households in America consist of a single person living alone. U.S. Census Bureau, American Community Survey, 2006-2008, S1101 Households and Families (available at http://factfinder.census.gov/servlet/STTable?_bm=y&-geo_id=01000US&-qr_name=ACS_2008_3YR_G00_S1101&-ds_name=ACS_2008_3YR_G00_&-lang=en&-redoLog=false&-format=&-CONTEXT=st). And the proportion of women who do not have children has risen to 1 in 5 women from 1 in 10 in 1970. Gretchen Livingston and D'Vera Cohn, Pew Research Center, "More Women without Children," (June 25, 2010) (available at <http://pewresearch.org/pubs/1642/more-women-without-children>).

⁵ Rose Kreider, U.S. Census Bureau, "Living Arrangements of Children: 2004" (2008) (available at <http://www.census.gov/prod/2008pubs/p70-114.pdf>.) Under recent DOL guidance, grandparents and grandchildren may be covered under the federal FMLA in certain cases (DOL WHD Administrator's Interpretation 2010-3, June 22, 2010), but statutory language in HB 2278 would make clear that grandparents and grandchildren generally have this protection.

Grandparents not only provide care, but they will increasingly need care. Longer life spans mean that the number of Americans aged 65 and older will double during the next 25 years. By 2030, there will be 71 million older adults accounting for roughly 20% of the U.S. population.”⁶ This is particularly relevant for Pennsylvania, which has the second highest proportion of over-65 residents in the country—nearly 1 in 6. Older Americans are more likely to have conditions that require assistance and outside care, which increases demands on families.⁷ Legislation like HB 2278 will help workers meet their caregiving responsibilities for grandparents without putting their jobs at risk.

Congress has already taken steps to recognize the important care that family members provide. In 2008, it amended the federal FMLA for military families to ensure that any “next of kin” of a wounded servicemember, including a sibling or a grandparent, would have access to FMLA leave to care for that servicemember. And as discussed below, several states have also moved in this direction.

III. States Have Already Expanded the Definition of Family in their FMLA Laws.

HB 2278 is similar to laws that other states have adopted to allow FMLA leave for more family members than covered by federal law. By enacting HB 2278, Pennsylvania would join forward-thinking states that recognize that family caregiving comes in many forms:

State	Definition of family (beyond child, spouse and parent)
California	Domestic partner and domestic partner’s child ⁸
Connecticut	Civil union partner ⁹ , parent-in-law ¹⁰
Hawaii	Grandparent, parent-in-law, grandparent-in-law ¹¹ or an employee’s reciprocal beneficiary ¹²
Maine	Domestic partner and domestic partner’s child ¹³ , siblings ¹⁴
New Jersey	Civil union partner and child of civil union partner ¹⁵ , parent-in-law, step parent ¹⁶
Oregon	Domestic partner ¹⁷ , grandparent, grandchild or parent-in-law ¹⁸
Rhode Island	Domestic partners of state employees, parent-in-law ¹⁹

⁶ Centers for Disease Control and Prevention and the Merck Company Foundation, “The State of Aging and Health in America 2007,” p. 5 (available at http://www.cdc.gov/aging/pdf/saha_2007.pdf).

⁷ Machlin, S, Cohen, J, Beauregard, K., Agency for Healthcare Research and Quality, “Health Care Expenses for Adults with Chronic Conditions, 2005,” (May 2008) (available at http://www.meps.ahrq.gov/mepsweb/data_files/publications/st203/stat203.pdf.)

⁸ CAL. FAM. CODE § 297.5.

⁹ CONN. GEN. STAT. § 46b-38nn.

¹⁰ CONN. GEN. STAT. § 31-51kk (7).

¹¹ HAW. REV. STAT. § 398.1.

¹² HAW. REV. STAT. § 398.3.

¹³ 26 ME. REV. STAT. ANN. § 843 (4)(D).

¹⁴ LD 2130 (takes effect June 2008).

¹⁵ N.J. STAT. ANN. § 37:1-31.

¹⁶ N.J. STAT ANN. § 34-11B(3)(h).

¹⁷ HB 2007.

¹⁸ OR. REV. STAT. § 659A.150 (4).

Vermont	Civil union partner ²⁰ , parent-in-law ²¹
Wisconsin	Parent-in-law ²²
District of Columbia	Related to the worker by blood, legal custody, or marriage; person with whom the employee lives and has a committed relationship; child who lives with employee and for whom employee permanently assumes and discharges parental responsibility. ²³

In addition, several states have chosen to provide protections above and beyond what the FMLA provides. For example, numerous states have a lower threshold for workers to get family and medical leave protection (extending the protection to workers at smaller businesses); others have expanded the purposes for which the leave may be used or have provided additional weeks of job-protected leave. California, New Jersey and Washington State have gone one step further and adopted legislation providing for *paid* family leave.

The wide-spread adoption of laws improving upon and expanding the protections of the federal FMLA demonstrates that such changes can and do function smoothly. By joining these states, Pennsylvania would be doing a tremendous service to workers, families and businesses in the state.

IV. Passing HB 2278 Would Improve Health Outcomes and Help Employers.

We believe that expanding the definition of family members would lead to improved health outcomes for Pennsylvania residents. Research indicates that job-protected leave, like that offered under the FMLA and HB 2278, improves overall health. Workers credit FMLA leave with having a positive effect on the leave taker’s or ill family member’s physical health (63%) and emotional well being (70%).²⁴ They also report that FMLA leave leads to quicker recovery times (84%), increases the ability of workers or their family members to comply with doctor’s instructions (94%) and, in some cases, delays the need for using a nursing home or other long-term health care facility (32%).²⁵

Furthermore, experience has convinced us that employers will be able to implement HB 2278 instantly and painlessly. As stated earlier, the bill’s protections, while very important, are modest in scope. HB 2278 does not expand the types of employers that must give FMLA leave,²⁶ it does not change the scope of medical conditions for which leave may be taken, nor does it give leave to workers who have not met the FMLA tenure requirements.²⁷

¹⁹ R.I. Pub. Laws § 24-48-1(5).

²⁰ 23 VSA § 1204(a).

²¹ 23 VSA § 471(3)(B).

²² WIS. STAT. §103.10(1)(f).

²³ D.C. Code 32-501(A), (B), (C).

²⁴ 2000 DOL Report at A-1-16.

²⁵ *Id.* at A-1-17.

²⁶ The FMLA only covers employers with 50 or more employees. 29 U.S.C. § 2611(2)(B)(ii).

²⁷ In order to be eligible for FMLA leave, a worker must have worked for the employer for at least one year and must have worked 1250 hours in the last year. 29 U.S.C. § 2611(2)(A)(i)&(ii).

Rather, it simply builds upon the infrastructure already in place at workplaces covered by the federal law, and adds a few types of family members for whom unpaid leave may be taken. And, it makes clear that any leave taken pursuant to the federal FMLA counts against a worker's entitlement to leave under HB 2278.

Employers have accepted and easily implemented the FMLA. Data from the most recent national research conducted by the U.S. Department of Labor show that the vast majority of employers report that complying with the FMLA has a positive or neutral effect on productivity (83%), profitability (90%), growth (90%) and employee morale (90%).²⁸ The law benefits employers in numerous ways, most notably through the savings derived from retaining trained employees, through having productive workers on the job and through a positive work environment. Almost 95% of workers who take FMLA leave return to work for the same employer.²⁹

Compliance with the FMLA has not been burdensome to employers. Only a small proportion of workers take FMLA leave, and the leave they take tends to be much shorter than the 12 weeks to which they are entitled. The Department of Labor's survey found that only 5.2% of all employees have taken FMLA leave for family caregiving,³⁰ and the great majority of family caregivers take fewer than ten days of the 12 weeks of leave afforded to them under the Act.³¹

V. Conclusion

Passage of HB 2278 will give Pennsylvania workers and families an important tool to meet their family obligations while preserving their jobs and economic security. Based upon experience over the last 20 years, we are convinced that this law will benefit workers, communities and businesses in Pennsylvania. We urge the Committee to pass it.

²⁸ *Id.* at 6-11.

²⁹ *Id.* at A-1-17.

³⁰ *Id.* at 2-5 Tbl. 2.4. (This statistic includes caregiving for an ill child, spouse or parent, but excludes caregiving for a new child.)

³¹ *Id.* at 2-7 Tbl. 2.7. (This statistic includes caregiving for an ill child, spouse or parent, but excludes caregiving for a new child.)